

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
PECOS DIVISION

EDWARD GLENN LEWIS, MARK MORTON §
DON BREWSTER, and IRAM GALINDO, On §
Behalf of Themselves and All Others Similarly §
Situated, §
Plaintiffs, §
§ V. § CIVIL ACTION NO. 4:15-cv-13-DAE-DF
§
BRAZOS ROCK, INC., and DESCO §
ACQUISITION, LLC d/b/a BLACKEAGLE §
ENERGY SERVICES §
§ Defendants, §
§ DESCO ACQUISITION LLC d/b/a §
BLACKEAGLE ENERGY SERVICES, §
§ Cross-Claim Plaintiff, §
§ V. §
§ BRAZOS ROCK, INC., §
§ Cross-Claim Defendant. §

**JOINT MOTION TO APPROVE CONFIDENTIAL SETTLEMENT
AND STIPULATION OF DISMISSAL WITH PREJUDICE**

Edward Glenn Lewis, Mark Morton, Don Brewster and Iram Galindo, on behalf of themselves and others similarly situated (collectively “Plaintiffs”) and Desco Acquisition, LLC d/b/a Blackeagle Energy Services (Desco) file this joint motion to approve their confidential settlement agreement (the “Agreement”) and to dismiss this case with prejudice.

I. Brief Procedural History

This consolidated action was originally filed on 2/9/15 by Edward Glenn Lewis, Mark Morton, Don Brewster against Brazos Rock, Inc. in *Edward Glenn Lewis, Mark Morton and Don Brewster, On Behalf of Themselves and All Others Similarly Situated v. Brazos Rock, Inc.* (No. 4:15-cv-13); United States District Court for the Western District of Texas (“Lewis Case”).

A few months later, on 7/16/15 Iram Galindo filed suit on behalf of himself and others similarly situated in the case styled: *Iram Galindo, on Behalf of Himself and on Behalf of All Others Similarly Situated v. Brazos Rock, Inc.* (No. 7:15-cv-108); United States District Court for the Western District of Texas (“Galindo Case”).

Both cases were conditionally certified as collective actions and a total of 232 opt ins joined the lawsuits.

The *Lewis* and *Galindo* cases were later consolidated under the current case style (hereinafter referred to as the “Consolidated Case” or “this lawsuit”).

On or about August 2016, Desco acquired some of Brazos Rock’s assets and temporarily employed some of Brazos Rock’s former employees for the purpose of completing a project that Brazos Rock had committed to perform, but was unable to complete. Upon information and belief, Brazos Rock went out of business soon thereafter.

On 12/27/16, Plaintiffs filed their First Amended Complaint naming Desco as an additional Defendant on the theory that Desco was liable to Plaintiffs for the FLSA violations committed by Brazos Rock on the basis that Desco was a “successor employer.” Desco denied the allegations that it is a successor employer.

After considerable discussion among counsel, as well as substantial briefing to the Court, in early December 2017, the Parties reached a settlement of their dispute. Pursuant to the

confidential settlement agreement (the “Agreement”), each Plaintiff will receive his prorated share of the net settlement proceeds in proportion to the unpaid overtime wages (and other damages) that he claimed or could have claimed by way of this lawsuit.

II.

The terms of the settlement are confidential. Plaintiffs have approved the settlement and have signed the Agreement. Similarly, Defendant has approved and signed the Agreement. All Parties are in agreement as to the apportionment and distribution of the settlement funds. In light of the relative risks to the Parties arising from the claims and defenses asserted, the settlement is in the best interest of all parties. Specifically, there is substantial risk the Plaintiffs may be unsuccessful on the merits if this compromise settlement is not approved.

III.

The Agreement was negotiated at arm’s length and represents the resolution of a bona fide wage dispute. All Parties were represented by counsel with years of experience handling these types of FLSA cases. The Parties represent to the Court that the terms of the settlement are fair, reasonable, were negotiated at arms-length, and are in the best interests of the Plaintiffs and Defendant as well. While the terms of the settlement are confidential, each of the Plaintiffs will receive a substantial recovery of the damages claimed even after attorneys’ fees and expenses are deducted. By entering into this settlement, however, the Defendant has not conceded, but denies liability.

In light of the Parties’ settlement, they now respectfully request that the Court enter the accompanying order approving the settlement and dismissing this case with prejudice to refiling, and with each party bearing their own costs.

JOINTLY SUBMITTED BY:

Respectfully submitted,

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CERTIFICATE OF SERVICE

I served a true and correct copy of this document on all counsel of record via Notice of Electronic Filing on known Filing Users on December 20, 2017 as follows:

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